



COUNCIL AGENDA: 04-13-10
ITEM: 2.6

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Paul Krutko

SUBJECT: SEE BELOW

DATE: March 29, 2010

Approved

Date

4/2/10

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANGER
TO SUBMIT AN APPLICATION TO THE FOREIGN TRADE-ZONES
BOARD FOR ESTABLISHING A FOREIGN TRADE SUBZONE AT LAM
RESEARCH CORPORATION**

RECOMMENDATION

Adopt a resolution:

- (a) Authorizing the City Manager to submit an application to the Foreign Trade-Zones Board for establishing a Foreign Trade Subzone at Lam Research Corporation facilities in Fremont and Livermore.
- (b) Authorizing the City Manager to negotiate and execute an agreement with Lam Research Corporation for management and operation of the Subzone upon the Foreign Trade-Zones Board's approval of the application.

Although this project is not located in San Jose, the City's grant of authority from the federal government to operate and administer the Foreign Trade Zone program extends beyond the City boundary to include Santa Clara, Monterey, San Benito, and Santa Cruz Counties and the southern region of Alameda and San Mateo Counties.

OUTCOME

Approval by the Council will allow the City Manager to submit the Lam Research Corporation Foreign-Trade Subzone application to the U.S. Foreign-Trade Zones Board and to negotiate and execute an operating agreement upon approval of the Subzone application.

BACKGROUND

Pursuant to State of California Government Code, the City is authorized to apply for and accept a grant to establish, operate and maintain Foreign Trade Zones and Subzones, subject to the requirements of federal law and regulations of the Foreign Trade Zones-Board, and to take other actions necessary to establish, operate and maintain Foreign Trade Zones or Subzones. In November 1974, the City received authority from the U.S. Department of Commerce Foreign Trade-Zones Board to operate Foreign Trade Zone #18.

A Foreign Trade Zone is a space-designated site outside of U.S. Customs & Border Protection territory. Merchandise stored, manufactured or assembled in a Foreign Trade Zone is considered to be in international commerce. Companies utilizing a Foreign Trade Zone are able to delay, reduce or eliminate the payment of duties to the U.S. Government, and realize other cost savings. Foreign Trade Zone sites and facilities remain within the jurisdiction of local, state and federal governments or agencies.

The City's Foreign Trade Zone grant of authority includes the designation of a General Purpose Zone which is located at 2055 South Seventh Street, Suite A, in the Monterey Corridor. Under an operating agreement, the City has delegated the administration and operation of the General Purpose Zone to San Jose Distribution Services, which operates a 330,000 square-foot warehouse facility. The General Purpose Foreign Trade Zone is established for multiple users, whereas a Subzone is for a single company that is engaged in large-scale distribution or manufacturing and unable to operate within a General Purpose Zone.

Lam Research seeks to establish a Foreign Trade Subzone at sites in Fremont and Livermore.

Lam Research Corporation, headquartered in Fremont, designs, manufactures, markets and services semiconductor processing equipment used in the fabrication of integrated circuits. Incorporated in 1980, Lam Research is the market leader in plasma etch and a leading provider of wafer cleaning processes which are critical to semiconductor manufacturing. Lam's etch systems shape the microscopic conductive and dielectric layers into circuits that define the final use and function of the integrated circuit. Lam's corporate headquarters in Fremont is the company's base for manufacturing operations, principal operating functions, and research and development facilities. Lam Research works with San Jose State University to develop local workforce talent and also partners with the University on research initiatives.

ANALYSIS

Foreign Trade Subzone designation will allow Lam Research to preserve its U.S. operations and operate more competitively in the global wafer fabrication equipment industry. The U.S. Foreign Trade Zone program aims to foster manufacturing in the United States and to maintain and increase employment for U.S. residents. Cost savings and improved efficiencies associated

with the Foreign Trade Subzone will enhance Lam's operations in Fremont and its economic impact throughout the region.

Lam sources parts and components from both domestic and foreign sources in manufacturing and assembling various lines of wafer fabrication equipment and new product lines at the proposed Subzone sites. The Foreign Trade Subzone will allow Lam Research to request inverted tariff treatment on foreign parts sourced for use in manufacturing that will enter U.S. Customs territory. This will enable Lam to pay the lower duty rate which is assessed on a finished product, rather than the higher duty rate assessed on the component. Lam exports an estimated 96 percent of the equipment manufactured at the proposed Subzone site to overseas customers. The Subzone authority will enable Lam Research to avoid paying U.S. duties on foreign components assembled at the proposed Subzone site and exported to customers in foreign markets. Lam's extensive exporting activity supports national economic and trade policy to foster economic development and employment in the United States.

New product research and development will also be enhanced at the proposed Subzone site. The development of new and advanced product lines is critical to Lam. The Subzone authority will lower costs of equipment purchased by Lam in support of research and development operations at the company's headquarters.

Lam Research currently employs 1,433 full-time workers at the proposed Subzone sites. In addition, 244 temporary employees and 1,300 contractors are dependent upon Lam's continued presence in Fremont. Lam Research currently employs 236 San Jose residents. The Subzone designation will support Lam's goal to continue to employ a highly trained and skilled workforce in Fremont.

The proposed Subzone sites will comprise five buildings on the 26-acre Lam Research campus that includes manufacturing, distribution, refurbishment, testing, new product introduction and support services such as sales, engineering and information technology. Three additional sites in Fremont are third-party logistics facilities operated by Menlo Worldwide Logistics and Innovative Packaging Corporation which support Lam's operations. The site in Livermore is an unoccupied building and there are no current plans for future use. The Subzone application, however, will include this site to allow for flexibility if the company's real estate needs change.

All security requirements of U.S. Customs & Border Protection will be met prior to activation of the Subzone. Lam Research will establish procedures to maintain records required by the Foreign Trade Zones-Board and U.S. Customs & Border Protection.

EVALUATION AND FOLLOW-UP

As this project will occur outside of the City of San Jose, staff does not anticipate follow-up with the Council.

PUBLIC OUTREACH

The Office of Economic Development has contacted representatives of the cities of Fremont and Livermore to notify the cities of Lam Research's intention to seek the Subzone authority at facilities in their cities.

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This resolution has been in prepared in consultation with the Office of the City Attorney.

COST IMPLICATIONS

Under terms of the City's Foreign Trade Zone Fee Schedule, Lam Research will pay the City an application fee of \$3,000 at the time of the application submission and an annual fee of \$5,000 at the time the Subzone is activated by U.S. Customs & Border Protection.

CEQA

Not a project.

/s/

PAUL KRUTKO
Chief Development Officer

Please contact Joseph Hedges, International Program Manager, at (408) 535-8186, if there are any questions.